

RETURNABLE:
JUNE 14, 2011
at 11:30 AM

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

JOSEPH HANDERHAN,
MARY HANDERHAN,

Chapter 13
Case No.: 11-44274 CEC

Debtors.

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**NOTICE OF MOTION FOR AN ORDER
AUTHORIZING AN EXTENSION OF THE AUTOMATIC STAY**

PLEASE TAKE NOTICE, that upon the annexed application of Joseph and Mary Handerhan, (the “Debtors”) by their attorney, Rosenberg Musso Weiner, LLP, the undersigned will move this court before the Carla E. Craig, United States Bankruptcy Judge at the United States Bankruptcy Court, 271 Cadman Plaza, Brooklyn, New York, on June 14, 2011 at 11:30 am for an order authorizing an extension of the chapter 13 automatic stay, and granting the Debtor such other and further relief as is just and proper.

PLEASE TAKE FURTHER NOTICE, that objections to the relief sought in this motion should be in writing and filed with the court with a copy to chambers and served upon the

undersigned attorney for the Debtor so as to be received at least seven days before the return date of this motion.

Dated: May 26, 2011
Brooklyn, New York

ROSENBERG MUSSO WEINER LLP
Attorneys for the Debtors

_____/s/_____
By: ROBERT NADEL, ESQ. (RN-1258)
26 Court Street, Suite 2211
Brooklyn, New York 11242
(718) 855-6840

To:

Office of the United States Trustee
33 Whitehall Street
21st Floor
New York, NY 10004

Michael Macco, Chapter 13 Trustee
135 Pinelawn Road
Ste 120S
Melville, NY 11747

ALL CREDITORS

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

JOSEPH HANDERHAN,
MARY HANDERHAN,

Chapter 13
Case No.: 11-44274 CEC

Debtors.

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TO: HON. CARLA E. CRAIG
UNITED STATES BANKRUPTCY JUDGE

Robert Nadel, Esq., an attorney duly admitted to practice before this Court, affirms as follows:

1. I am an associate of Rosenberg Musso Weiner LLP, which is counsel to the above referenced Debtors, who filed a chapter 13 bankruptcy petition in the Eastern District of New York on May 19, 2011. The Chapter 13 Trustee assigned to the case is Michael Macco (the "Trustee").
2. The Debtors had filed a prior case, numbered 08-43424, under chapter 13 of the bankruptcy code (the "Prior Case") on May 30, 2009. The Prior Case was dismissed on or about January 7, 2011.
3. The chapter 13 plan in the Prior Case required the Debtors to make monthly payments to the chapter 13 Trustee, Michael Macco. The first payment under the plan was \$1,576.00, and the remaining 59 payments were \$1,570.00. A copy of the plan

is attached hereto as exhibit A.

4. Unfortunately, on or about September 2010, Toyota Motor Sales, USA, Inc. which manufactures, distributes and sells Toyota vehicles underwent some changes to its organization. As a result, the Debtor's income temporarily fell, rendering him unable to make plan payments. A copy of the dismissal order from the Prior Case is attached hereto as exhibit B.

5. Mr. Handerhan is once again receiving a sufficient income with which to make his plan payments.

6. 11 U.S.C. Section 362(c)(3) indicates that, where a prior case has been dismissed within the last year, "...the stay under subsection (a) with respect to any action taken with respect to a debt...shall terminate with respect to the debtor on the 30th day after the filing of the later case."

7. However 11 U.S.C. Section 362 (c)(3)(B) states that "on the motion of a party in interest for continuation of the automatic stay...the court may extend the stay...if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed".

8. In May 30, 2009, the debtors filed a chapter 13 case, in good faith, in an attempt to repay their unsecured debt. However, the Debtors suffered a reduction in their income. As a result, they were no longer able to fund their chapter 13 plan. However, the Debtors are now making a sufficient income with which to fund their chapter 13 plan.

9. Based on these circumstances, it is respectfully requested that this Court extend the automatic stay throughout the pendency of this chapter 13 case.

WHEREFORE, it is respectfully requested that this Court enter an order authorizing the extension of the automatic stay, and that the order provide for such other and further relief as this court deems just and proper.

Date: May 26, 2011
Brooklyn, New York

ROSENBERG MUSSO WEINER
Counsel for the Debtors

/s/ _____
By: Robert Nadel, Esq.
26 Court Street, Suite 2211
Brooklyn, NY 11242
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